

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA, and
STATE OF NEW MEXICO, ex rel. STATE
ENGINEER,

Plaintiffs,
and

ZUNI INDIAN TRIBE, NAVAJO NATION,

Plaintiffs in Intervention,
v.

A & R PRODUCTIONS, et al.,

Defendants.

No. 01cv00072-BB/WDS

**ZUNI RIVER BASIN
ADJUDICATION**

Subfile No: ZRB-4-0299

ORDER GRANTING DEFAULT JUDGMENT

THIS MATTER is before the Court upon the following Motion for Default Judgment filed by Plaintiffs United States of America ("United States") and State of New Mexico ex rel. State Engineer ("State"):

March 2, 2009 *Motion for Default Judgment*, Document No.2152

The Court, being fully advised, finds that the Plaintiffs' motion is well-taken and should be GRANTED. Upon the record, the Court finds:

1. The Court has jurisdiction of the parties and the subject matter herein.
2. Each defendant named below has been legally served with process or has waived service of summons.

3. Each defendant named below has failed to comply with the applicable procedural and scheduling orders and to appear, answer, or otherwise defend in the

indicated subfile, and is adjudged to be in default.

4. The portions of the Zuni River Basin Adjudication Hydrographic Survey Report for Subareas 1, 2, 3 Excluding Ramah (August 2006, as amended), prepared by Natural Resources Consulting Engineers, Inc. under contract to the United States, relating to the water rights of each defendant named herein have been introduced into the record and the same are hereby incorporated as the evidentiary basis of the water rights described in the order.

5. The water rights of each defendant named below in the above-styled and captioned civil action are as follows:

KENT NICOLL & VIVIAN NICOLL

Subfile No: ZRB-4-0299

WELL

Map Label: 3B-6-W007

OSE File No: G 1366

Priority Date: 4/9/2002

Purpose of Use: EXPLORATION

Well Location: As shown on Hydrographic Survey Map 3B-6

S. 30 T. 10N R. 15W 1/4, 1/16, 1/64: SW SE NW

X (ft): 2,534,466 **Y (ft):** 1,479,037

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water (ac-ft per annum): 0.0

WELL

Map Label: 3B-6-W008

OSE File No: G 1432

Priority Date: 12/2/2002

Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD

Well Location: As shown on Hydrographic Survey Map 3B-6

S. 30 T. 10N R. 15W 1/4, 1/16, 1/64: SW SE NE

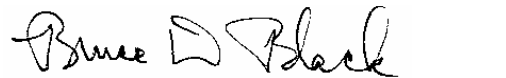
X (ft): 2,534,986 **Y (ft):** 1,478,938

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 0.7 ac-ft per annum;

WHEREFORE IT IS HEREBY ORDERED AND ADJUDGED that the water rights of each defendant named above are as set forth herein, subject to the right of any other water rights claimant with standing to object prior to the entry of a final decree.

IT IS FURTHER ORDERED that each defendant named herein, and his or her successors, representatives, heirs and assigns, are HEREBY ENJOINED from any diversion or use of the waters of the Zuni River Stream System, except in strict accordance with this order or other orders of this Court in this civil action.

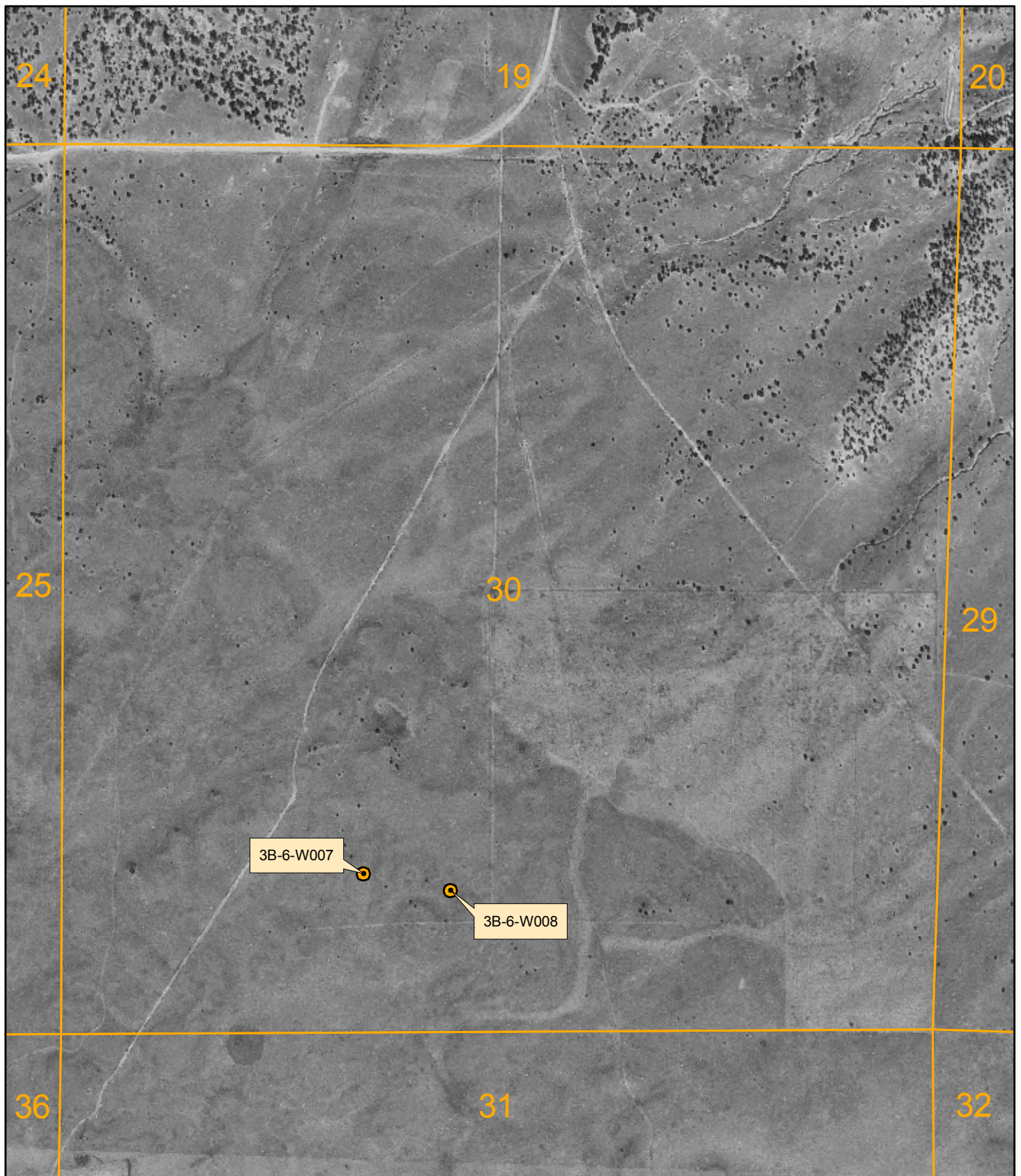
A handwritten signature in black ink, appearing to read "Bruce D. Black", followed by a horizontal line.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE







Recommended for approval:

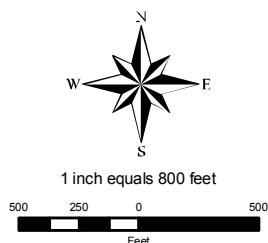
Vickie L. Gabin

VICKIE L. GABIN
SPECIAL MASTER



LEGEND

-  Well
-  Town
-  Stock Pond
-  Basin Boundary
-  Sub-Area Boundary
-  Section Boundary



Zuni River Basin
Hydrographic Survey



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA

Project Manager: L. Niel Allen, P.E., Ph.D.

Sub-Area 3
Subfile Number: ZRB-4-0299
PLSS: S30, T10N, R15W
Sheet 1 of 1

October 2006